

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of)	No. FP14-00002
)	
Kyle Lublin, on behalf of D.R. Horton)	Rivenwood Final Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Final Plat</u>)	AND DECISION

SUMMARY OF DECISION

The Hearing Examiner **APPROVES** the Rivenwood Final Plat, subject to conditions.

SUMMARY OF PUBLIC MEETING

Meeting Date:

The Hearing Examiner held a public meeting on the request on February 19, 2015. At the meeting, the Hearing Examiner ruled that the record would remain open until February 26, 2015, to allow D.R. Horton (Applicant), the City of Issaquah (City), and a representative from the Aspen Meadows Homeowners Association to meet and consider the Applicant's compliance with Condition 19 of the preliminary plat.¹ That meeting occurred on February 24, 2015, and the Hearing Examiner closed the record after receiving a memorandum from the City discussing what transpired at the meeting.

Comment:

The following individuals provided comments at the public meeting:

Peter Rosen, City Senior Environmental Planner
Kyle Lublin, Applicant Representative
Al Zurawski, Aspen Meadows Homeowners Association

Exhibits:

The following exhibits were submitted at the public meeting:

- A. Staff Report, dated February 19, 2015, with the following attachments:
1. Vicinity Map, undated
 2. Final Plat Application, dated August 7, 2014
 3. Final Plat Description and Site Plans (six sheets), received January 15, 2015
 4. Affidavit of Mailing to property owners within 300 feet and interested parties, including Notice of Public Meeting and attached mailing list, dated February 5, 2015

¹ The Hearing Examiner issued a Post-Hearing Order on the same day as the public meeting, memorializing this ruling.

5. Hearing Examiner Findings, Conclusion, and Decision for preliminary plat, dated May 31, 2007
6. Notice of Action, Issaquah City Council, adopting Hearing Examiner's findings, conclusions, and decision, dated July 16, 2007
7. Settlement Agreement, dated July 7, 2008
8. Letter from Sheldon Lynne, Public Work Engineering Director, to Peter Rosen, dated February 19, 2015
9. Performance Bond Summary, Sammamish Plateau Water and Sewer District, dated August 29, 2013
10. Letter from Katherine Orni to Jeff Brauns, dated October 24, 2012
11. Email from Alison Tobey to Doug Schlepp, dated August 9, 2013, with email string
12. Storm Drainage Easement, dated June 11, 2014

The following memorandum was submitted after the public meeting:

- *Memorandum from Peter Rosen, Senior Environmental Planner, to the Hearing Examiner, dated February 24, 2015 (Post-Meeting Memorandum)*

The Hearing Examiner enters the following Findings and Conclusions based upon the comments offered and exhibits admitted at the public meeting, and on the Post-Meeting Memorandum:

FINDINGS

Application and Notice

1. Kyle Lublin, on behalf of D.R. Horton (Applicant), requests approval of a final plat, Rivenwood (aka Issaquah 22), to subdivide a 15-acre site into 52 single-family residential lots. The proposed plat includes eleven tracts for critical areas, stormwater detention, open space, access and utilities, and common landscaping.² The final plat includes three road connections, an open space tract along the plat's eastern boundary, a critical area tract protecting a stream and its associated buffer, and another critical area tract protecting a large wetland area encompassing the north portion of the site. A trail has been included in the wetland buffer that will connect to adjacent properties developing around the wetland, including the McBride and Jazz Run subdivisions. The property has been cleared and graded, and roads and utilities are under construction. *Exhibit A, Staff Report, page 2; Exhibit A.3.*
2. The City received the final plat application on August 8, 2014, and determined that the application was complete on February 5, 2015. The City mailed notice of the application and associated public meeting to owners of property within 300 feet of the subject

² The subject property is identified by King County Parcel Nos. 222406-9020; 222406-9076; and 222406-9099. *Exhibit A.2.* A legal description of the property is included with the site plans. *Exhibit A.3.*

property and parties of record on February 5, 2015. The City did not receive any public comments on the final application.³ *Exhibit A, Staff Report, page 4; Exhibit A.4.*

3. The City acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, during the preliminary plat approval process. Accordingly, no further SEPA review is necessary for final plat approval.⁴ *Exhibit A, Staff Report, page 4.*

Comprehensive Plan, Zoning, and Surrounding Property

4. The property is designated Low Density Residential under the City Comprehensive Plan. The purpose and intent of the Low Density Residential designation is to provide a variety of housing types and densities within a full range of urban services. Areas of the city with critical areas are appropriate for designation as Low Density Residential, provided that critical areas are protected. *City Comprehensive Plan, Land Use Element, page L-11; Exhibit A, Staff Report, page 2.*
5. The property is zoned Single Family Small Lot (SF-SL). The SF-SL zoning district primarily provides for single-family neighborhoods, like the one proposed, in close proximity to low-density multifamily neighborhoods and urban services. *Issaquah Municipal Code (IMC) 18.06.100.D.*
6. All surrounding properties are also built, or will be built, with single-family residential neighborhoods. The Overdale Park neighborhood is located to the south, and the Aspen Meadows and Highland Terrace neighborhoods are located to the east and west, respectively. Preliminary plats have been approved for the proposed McBride and Hawk Estates subdivisions to the north. *Exhibit A, Staff Report, page 2.*

Project Background

7. A preliminary plat application was submitted for the site, previously named "Issaquah 22," by John F. Buchan Construction, Inc., in December 2005. The City's Hearing Examiner held consolidated open record hearings on the proposed preliminary plat and related appeals of the City's Mitigated Determination of Nonsignificance, on April 5, 13, and 25, in 2007.⁵ On May 31, 2007, the Hearing Examiner recommended denial of the

³ IMC 18.04.180 governs public notification of land use proposals. IMC 18.04.180.B.2 provides that parties of record and property owners within 300 feet be notified of final plat applications; IMC 18.04.180.B.6 dictates that parties of record be notified of the associated public meeting. Because the preliminary plat was first approved in 2007, the City notified the Aspen Meadows and Overdale Park Homeowners' Association Boards as well. *Exhibit A, Staff Report, page 4.*

⁴ As noted by the Washington Supreme Court, "SEPA does not mandate bureaucratic redundancy but only that the heretofore ignored environmental considerations become part of normal decision making on major actions." *Lovelace v. Yantis*, 82 Wn.2d 754, 765 (1973).

⁵ Two parties, the City of Sammamish and the Friends of Aspen Meadows (FOAM), appealed the City's SEPA determination. The City of Sammamish, however, withdrew its appeal. *Exhibit A.5.*

SEPA appeal and approval of the preliminary plat, with 20 conditions. The Issaquah City Council subsequently concurred with and adopted the Hearing Examiner's Findings, Conclusions, and Recommendations on July 16, 2007. *Exhibit A, Staff Report, page 3; Exhibit A.5; Exhibit A.6.*

8. Friends of Aspen Meadows (FOAM), who had appealed the SEPA determination and testified against preliminary plat approval, filed a Land Use Petition Act (LUPA) appeal, based on vehicle traffic and safety related issues. FOAM's primary concerns involved the use of SE 52nd Street as a principal access route to and from the Issaquah 22 (Rivenwood) subdivision. FOAM withdrew its LUPA appeal in 2008, however, after reaching a settlement with the Applicant and the City. As part of the settlement, the Applicant agreed to: design and construct a street chicane or "twisted choker" on SE 52nd Street, to provide for traffic slowing; to limit the ingress and egress of construction traffic through Aspen Meadows; and to build a split rail fence along the front of the play lot on SE 52nd Street in Aspen Meadows. *Exhibit A, Staff Report, pages 3 and 8; Exhibit A.11.*
9. In November 2011, minor modifications to the approved preliminary plat were proposed because two parcels in the northwest corner of the preliminary plat were eliminated from the plat boundaries. The resulting plat design changes included relocating the stormwater detention ponds, road alignment changes, and changes to the boundaries and lot sizes in order to maintain the same number of residential lots as were originally approved in the preliminary plat. The City administratively approved these changes during construction/engineering subdivision plan review, consistent with IMC 18.13.160. Construction permits for clearing/grading, road construction, and utilities were submitted in December 2012. Plat construction was started in August 2013, and full construction plans were approved in January 2014. *Exhibit A, Staff Report, page 3.*

Preliminary Plat Conditions

10. Conditions placed on the preliminary plat approval for Issaquah 22 (PLN05-00137), apply to the final Rivenwood plat proposal. City staff reviewed the final plat application for consistency with the conditions of preliminary plat approval. The preliminary plat conditions of approval are numbered below, followed by the City staff's analysis, in italics, of how the proposed final plat complies with each of the conditions:

1. The applicant shall provide the City with a Mylar copy of the approved subdivision. Upon City signature of the Mylar, the applicant shall record the approved subdivision with the King County Department of Records and Elections. The plat shall not be deemed formally approved until so filed.

Condition noted.

2. Three copies of the recorded subdivision package shall be provided to the Planning Department within ten (10) days of recording with the King County Department of Records.

Condition noted.

3. A foundation soils report by a licensed Washington State geotechnical engineer will be required at the time of building permit submittal.

Condition noted. This is a standard requirement for building permit applications.

4. The residential development associated with these subdivisions will have an impact on the parks, City and County roads, fire protection, and schools servicing this area. Impact fees for these items will be due for each lot when building permits are issued.

Condition noted. Impact fee payment is required with issuance of building permits.

5. The applicant shall comply with all the mitigation measures contained within the SEPA determination (MDNS) issued January 17, 2007, as follows:

- a. A final wetland mitigation plan including a grading plan, planting plan, and a 5-year monitoring/maintenance plan shall be submitted by the applicant and approved by the Planning Department prior to issuing grading or construction permits.

Final wetland mitigation plans have been approved and the mitigation work has been bonded.

- b. In order to maintain and improve stream functions for flow, storm conveyance, and for movement of debris, sediments and aquatic/terrestrial organisms, the road-crossing culverts shall be designed to ensure stormwater conveyance and connectivity between the wetlands and stream environments. Details of the culverts must be approved by the City prior to issuing grading or construction permits.

The details of road-crossing culverts were approved with construction drawings. The Washington State Department of Fish & Wildlife (WDFW) also reviewed and approved the culvert improvements.

- c. In order to avoid potential downstream erosion impacts of stormwater discharge, the City shall review details of the design criteria/assumptions, location, method, and route of the project's stormwater conveyance and detention facilities prior to issuing grading or construction permits.

The applicant is constructing a pipeline to tightline peak stormwater flows down a steep ravine to bypass a natural drainage while maintaining base flows, in order to prevent erosion that could occur if stormwater was discharged at the top of the slope and headwater of the drainage. The alignment and design of the stormwater line was coordinated with the City. The regional stormwater system will be available for other development in the SE 48th Street drainage area to tie into in order to avoid downstream erosion.

- d. In order to mitigate for project traffic impacts at the intersection of SE 48th Street and Issaquah Pine-Lake Road, the applicant shall install an east to southbound right turn/acceleration lane from SE 48th Street to the south along Issaquah-Pine Lake Road. The acceleration lane shall provide the necessary acceleration distance and the appropriate tapers to meet the City of Issaquah design standards. The road improvement shall be installed prior to final plat approval.

The City of Issaquah and City of Sammamish agreed that a traffic signal at the intersection would improve operations to a greater degree than construction of a right-turn lane and therefore could substitute for the right-turn lane to meet the mitigation requirement (Exhibit A.10). The City of Sammamish reviewed and approved the signal design and the applicant has installed the traffic signal. The City of Sammamish will administer a late-comers agreement to collect a proportionate share toward the traffic signal from other developments contributing to impacts at the intersection.

- e. To minimize the temporal impact of construction traffic, construction traffic shall be limited to entering the site from SE 52nd Street and exiting the site through SE 51st Street in Highland Terrace.

Complies. This condition has been implemented for Issaquah 22 [Rivenwood] construction traffic.

- f. The applicant shall mitigate for potential impacts on public services. The City may approve a voluntary payment in lieu of other mitigation. Rate studies for police facilities and general government buildings have determined fees in the amount of \$86.30 per new lot for General Government Buildings and \$61.83 per new lot for Police Services are adequate to address project impacts. The applicant shall sign the voluntary contribution agreement and pay the voluntary contribution prior to issuance of building permits.

Impact fees, including the above-referenced police facilities and general government impact fees, will be paid prior to issuance of building permits.

6. Prior to issuance of a grading permit, the applicant shall submit a final tree-preservation plan showing the location of all trees that will be removed, trees to be retained, and where new trees will be planted. In response to neighbor comments, the plans shall pay special attention to protection of tree roots on properties adjacent to the southwest corner of the plat.

Complies. A tree preservation plan was reviewed and approved prior to issuance of a grading permit.

7. In order to replace the trees that were removed, prior to final building permit inspection of each single-family home, the applicant shall plant one native species tree on each housing lot.

This condition will be required with building permit applications on each lot.

8. Prior to the submittal of the final plat, the applicant shall install 5-inch Stortz fittings on all new and existing fire hydrants within 300 feet of the project site.

Complies. Stortz fittings have been installed on new and existing fire hydrants within 300 feet of the project site.

9. The applicant has volunteered to build a 3- to 4-foot-high split rail fence along the front of the play lot on SE 52nd Street and install signs informing drivers of the play lot and the need to watch for children. All improvements shall comply with the applicable City Code Requirements including street signs, street lighting, and fencing. Any improvements located on the property of the Aspen Meadows Homeowners Association shall be approved by the Aspen Meadows Homeowners Association.

Complies. The split-rail fence and signage has been installed by the applicant and was approved by the Aspen Meadows Homeowners Association (Exhibit A.11).

10. The applicant shall install a 6-foot-tall, solid-wood fence at the rear property line of the proposed lots adjacent to the east, south, and west boundary of the proposed subdivision.

Complies. A fence along the east, south and west boundaries of the plat is included in the bonded, deferred improvements.

11. The environmentally critical areas of wetlands and buffers shall be protected as required by the Critical Areas Ordinance, including IMC 18.10.460, 480, 515, as follows:

- a. Establish and record Critical Area Tracts to protect all critical areas by showing the following language on the face of the final plat as follows:

Restrictions for Native Growth Protection Easements/Critical Area Tracts and Buffers:

The Critical Area Tract conveys to the public a beneficial interest in the land within the sensitive area tract. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract imposes upon all present and future owners and occupiers of the land subject to the tract the obligation, enforceable on behalf of the public by the City of Issaquah, to leave undisturbed all trees and other vegetation within the tract. The vegetation within the tract may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the City of Issaquah or its successor agency, unless provided by law. Demonstrated health and safety concerns shall be considered by the City when permitting the cutting, pruning or removal of living or dead vegetation.

The common area between the tract and the area of development activity shall be marked or otherwise flagged to the satisfaction of the City of Issaquah prior to any clearing, grading, building construction or other development activity on a lot subject to the tract. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed. No building foundations are allowed beyond the required 15 foot building setback line, unless otherwise provided by law. Permanent survey stakes shall be placed delineating the boundary of the critical area.

Complies. The Final Plat includes critical areas in separate tracts and the plat includes notes to protect vegetation in the critical area. [Exhibit A.3]

- b. Temporary Fencing: Prior to any site disturbance or construction activity, the location of the outer extent of the critical area buffer and building setback line as established by an approved Development or Land Use Permit shall be marked in the field with orange construction fencing or other City approved material. The location of the markings shall be approved by the Planning Department and may require a professional survey. Markings shall be maintained for the duration of construction activities.

Complies. The outer extent of critical area buffers was established and marked in the field with construction permits.

- c. Temporary Signs: Prior to any site disturbance or construction activity, signs shall be placed at regular intervals along the construction fencing as approved by the Planning Department with notice of the critical area location and disturbance restrictions. The signs shall contain language similar to: "Wetland Protection Area, DO NOT DISTURB, Questions? Call: Issaquah Public Works 425-837-3400." See the Planning Department for samples.

Complies. Signs and construction fencing were installed with construction permits.

- d. Prior to submittal of the final plat, the applicant shall place permanent survey stakes using iron or cement markers delineating the critical area buffer boundaries.

Complies. Survey stakes have been installed to delineate critical area buffer boundaries.

- e. Prior to recording of the final plat map, the applicant shall place permanent signs at the critical area buffer boundary at regular intervals in accordance with IMC 18.10.515 as approved by the Planning Department explaining the critical area location, disturbance restrictions, and type and value of the critical area. See Planning Department for samples.

The wetland mitigation plans show signs along the boundary of critical area buffers. The signs will be installed or bonded for prior to recording of the final plat.

- f. Prior to recording of the final plat, the applicant shall post a maintenance/monitoring cash deposit for all critical area mitigation installations in the amount of 50% of the value of the estimated maintenance and monitoring cost. The cash deposit shall include the cost of the plants, installation labor, monitoring, and maintenance and shall be held for a period of five years.

The applicant will be required to post a 5-year maintenance/monitoring bond for the critical area mitigation prior to recording the final plat.

- g. Following installation and City acceptance of the mitigation plan, a monitoring report of the mitigation project shall be completed annually for a period of five years. The monitoring shall be completed by a private critical area professional. Reports shall be submitted with the professional's signature and / or professional's licensed stamp to the

Planning Department on or before November 1st of each year. The contents of the report shall be as outlined in the approved Critical Area Study, but at a minimum shall meet the King County Mitigation Guidelines for monitoring reports to include percent of survival, percent of invasive species, comparison with performance objectives, corrective measures, and timetable.

The final wetland mitigation plans include goals, objectives and specific performance standards for the wetland mitigation and requires annual monitoring reports for 5 years as a condition of bond release.

12. The proposed subdivision shall provide the following dedications and right-of-way improvements:

- a. Dedicate a 40-foot right-of way with a 20-foot utility easement. Where half-street improvements are required, dedicate a right-of-way 20 feet wide.

Complies. The Final Plat includes right-of-way and easement dedications as specified for full street improvements and in excess of that required for half-street improvements.

- b. Street improvements shall consist of 24 feet of pavement, rolled curb with gutter, 5-foot sidewalk on one side, and 5-foot landscape/street trees.

Complies. The approved construction plans meet or exceed this condition.

- c. The cul-de-sac in SE 232 Place shall have plantings in the center planting and a cul-de-sac radius constructed to Fire Department standards which include a 96-foot-diameter driving surface.

Not applicable or required. Development has been revised eliminating the need for a cul-de-sac in this location.

- d. The temporary cul-de-sac adjacent to Lot numbers 3 and 13 shall be constructed to Fire Department standards which include 96-foot-diameter driving surface.

Not applicable or required. Adjacent development has progressed to a point that a cul-de-sac is not necessary and the street will continue through to the next plat (McBride plat).

- e. Provide two full-width section Local Access Street stubs for future connections to the north for purposes of extension to SE 48th Street in

order to create a transportation grid system in the future as other properties develop.

Complies. The approved construction plans meet this condition. The Issaquah 22 [Rivenwood] plat improvements have been coordinated with the McBride preliminary plat improvements and the approved construction plans for both plats satisfy this condition.

13. All overhead utilities (power, telephone, CATV, etc.) shall be constructed underground along the project.

Complies. All overhead utilities will be constructed underground.

14. Per IMC Chapter 12.32, the contractor shall provide and install conduit for cable television. A note shall be provided on the construction drawings indicating the required work.

Complies. Conduit for cable television was installed with dry utilities.

15. The following language shall appear on the face of the final plat: "Maintenance of landscaping in the right-of-way including planter islands shall be responsible of the Homeowners Association. If the maintenance responsibilities are not addressed in the Homeowners Association covenants and restrictions, then the abutting property owner shall be responsible for the maintenance. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips, planter island, or planted medians."

Complies. The Final Plat includes a note (Sheet 2, Note # 2) that the Homeowners Association will have responsibility for landscape maintenance in the right-of-way including planter islands.

16. Final plat approval shall require full compliance with the drainage provisions set forth in the City's storm drainage requirements, the 1998 King County Surface Water Design Manual. Compliance is dependent upon addressing SEPA mitigation #3 that may include connection to the regional stormwater system proposed and currently under review in File No. PLN06-00080 or an alternative design to be approved by the City.

Complies. The applicant complied with City stormwater requirements and the 1998 King County Surface Water Design Manual. The applicant is constructing a regional stormwater system/pipeline to tightline peak stormwater flows down a steep ravine to bypass a natural drainage while maintaining base flows, in order to prevent erosion that could occur if stormwater was discharged at the top of the slope and headwater of the drainage. This complies with the intent of the SEPA

mitigation measure #3. The design of the system was coordinated with the City and the City issued SEPA review and permits for the regional stormwater system.

17. The storm drainage system shall address the concern of an adjacent western neighbor to limit drainage from the plat onto adjacent properties. The storm drainage system and grading improvements of the western lots of the plat shall be designed to ensure water runoff including surface drainage, rooftop, and footing drains minimizes impacts to adjacent properties.

Complies. The applicant worked directly with the adjacent neighbor. The neighbor (William Wiegant) provided a storm drainage easement and the applicant installed a drain pipe to address water runoff issues on the neighboring property. (Exhibit A.12).

18. Prior to grading permit approval, the Sammamish Plateau Sewer and Water District shall approve the sanitary sewer and water line construction plans for the plat. Prior to final plat approval, the Sammamish Plateau Sewer and Water District shall provide written approval acceptance of the installation of sewer and water utilities and the Applicant/Developer shall obtain current water and sewer certificates of availability.

Complies. Construction plans for the sanitary sewer and water line have been approved by the Sammamish Plateau Sewer and Water District. The improvements have been bonded. (Exhibit A.9).

19. The City shall consider the installation of "No Parking" along SE 52nd Street prior to any development of the site. The Applicant / Developer shall reimburse the City for installation of "No Parking" zone along SE 52nd Street prior to approval of the final plat, should the City elect to install such signs.

The City has determined the "No Parking" signs are necessary and the applicant has bonded for the sign installation.

20. To reduce traffic impacts during construction of houses, no more than ten building permits shall be active (approved and work in progress), until an access road in addition to SE 52nd Street becomes available. All building permits issued for development of any lot of the proposed subdivision shall include conditions that require the building contractor and subcontractors to park all vehicles within the area of the proposed subdivision, and not within the Aspen Meadows subdivision. All vehicles used in construction shall be washed on site as necessary to avoid tracking of mud and dirt onto adjacent streets especially SE 52nd Street. Construction activity shall occur only between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, excluding weekdays that are legal holidays when no such construction activity shall be permitted.

SE 51st St through Highland Terrace has been improved as a secondary access for construction vehicles. Therefore, the conditions limiting the number of active building permits will not apply.

Exhibit A, Staff Report, pages 6 through 12.

Staff Recommendation and Public Meeting

11. City staff reviewed the proposed final plat for compliance with the technical requirements in IMC 18.13.180 through IMC 18.13.340 governing the final plat application, the general and specific requirements of the final plat, the dedications and certifications contained in the final plat or to accompany the final plat, and the requirements of Chapter 58.17 RCW. City staff determined that all of these requirements are satisfied, and recommended approval of the final plat. *Exhibit A, Staff Report, pages 4 to 13.*
12. Under IMC 18.13.280, the Hearing Examiner may not approve a final plat until all required improvements are constructed in a satisfactory manner and approved by the responsible City departments, or sufficient bond has been satisfactorily posted in lieu of completion. The City Public Works Director must notify the City Planning Department in writing of the improvements deferred, the amount of bond or other security and the time limit of each, and any other pertinent information. *IMC 18.13.280.G.* Sheldon Lynne, City Public Works Engineering Director, stated in a February 19, 2015, letter to Peter Rosen, Development Services Department Senior Planner, that the developer has deferred some plat improvements, that these plat improvements are bonded, and that the bond has been posted. *Exhibit A.8.*
13. At the public meeting, Mr. Rosen discussed the history of the Issaquah 22/Rivenwood plat (as described above), including the settlement agreement with FOAM. He noted that the conflict with FOAM primarily involved traffic impacts in Aspen Meadows and that, in addition to the Applicant working to reduce potential impacts (as required by the settlement agreement), the development of the McBride plat to the north should significantly reduce traffic through Aspen Meadows because much of the Rivenwood traffic would likely access the neighborhood from 232nd Ave SE. Mr. Rosen also explained that SE 51st Street (to the northwest) has been improved, will be used for egress of construction traffic from the plat during development, and could be used as a secondary access point for neighborhood residents in the future. Mr. Rosen noted that City staff recommends standard proposed conditions of final plat approval that would ensure the Applicant obtains necessary signatures of City representatives on the final plat, properly records the final plat, and properly submits copies of the final plat to the appropriate City departments. Applicant Representative Kyle Lublin commented that the Applicant agrees with the City's proposed conditions. *Comment of Mr. Rosen; Comment of Mr. Lublin.*

14. Al Zurawski, a member of the Aspen Meadows Homeowners Association, inquired about neighborhood access from SE 51st Street and the street-parking differences between SE 52nd Street and SE 232nd Ave SE. City staff noted that SE 51st Street provides access to the Rivenwood neighborhood and would be further improved with the development of subdivisions to the north, and that the road widths of SE 52nd Street and SE 232nd Ave SE are the same, but SE 52nd does allow for some street parking. Mr. Zurawski relayed that many members of Aspen Meadows feel that their concerns over traffic impacts were not adequately addressed during the preliminary platting process. He stated that he hopes that residents in Rivenwood will enter and exit the neighborhood through the McBride plat—not Aspen Meadows—and that the chicane will have a positive impact on slowing traffic through Aspen Meadows for those entering Rivenwood. Mr. Zurawski said that he would like to know of a way to address excessive speeds on SE 52nd Street after residents are established in the Rivenwood neighborhood because Aspen Meadows residents have always been primarily concerned with the safety of neighborhood children. *Comments of Mr. Zurawski; Comments of Mr. Rosen.*
15. In response to Mr. Zurawski's concerns over excessive traffic speed on SE 52nd Street in Aspen Meadows, Mr. Rosen noted that the City discussed eliminating parking on SE 52nd Street within Aspen Meadows as a potential method of traffic control, especially designed with sight distance in mind, and that Condition 19 of the preliminary plat addresses this issue. Mr. Zurawski stated that he did not think eliminating parking in Aspen Meadows would solve the problem of Rivenwood residents driving too swiftly through Aspen Meadows. The Hearing Examiner noted that City staff's response to Condition 19 failed to provide enough clarity concerning parking on SE 52nd Street. Accordingly, the Hearing Examiner ruled that the City, the Applicant, and a representative of Aspen Meadows should meet to discuss the issue by February 26, 2015. *Comments of Mr. Zurawski; Comments of Mr. Rosen; Hearing Examiner Ruling.*
16. On February 24, 2015, City staff (Mr. Rosen and Doug Schlepp) met with representatives from Aspen Meadows (Mr. Zurawski and Eric Shipley) and the Applicant Representative (Mr. Lublin). Based on Mr. Schlepp's previous consultations with Mark Lawrence (Eastside Fire & Rescue), Sheldon Lynne (Public Works Director), and Gary Costa (Transportation Manager), the City determined that: no-parking signs should be posted on both sides of SE 52nd Street to the west of the intersection with 235th Place SE; six signs are required, with three signs posted on each side of the street; and parking restrictions will not extend into the Rivenwood plat because SE 52nd Street is designed to accommodate parking (on one side of the street) within the plat.⁶ *Post-Meeting Memorandum.*

⁶ The Aspen Meadows' representatives did not concur with this determination, especially because it would involve parking restrictions being imposed over 10 years after completion of the neighborhood. City staff agreed to check with Eastside Fire and Public Works Engineering to consider allowing parking on one side of SE 52nd Street within the affected area. *Post-Meeting Memorandum.* As Condition 19 only required the City to *consider* installation of no-parking signs along SE 52nd Street, the condition is satisfied.

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide final plat applications under Issaquah Municipal Code (IMC) 18.04.490.C.2 and IMC 18.13.200. Final plats are reviewed at public meetings and do not require review at an open record hearing. *IMC 18.04.470.B*. The Hearing Examiner's decision on a final plat is appealable to the City Council. *IMC 18.04.490.C.2*.

Criteria for Review

The criteria for final plat review are found in IMC 18.13.200.B, which states:

The Hearing Examiner shall review the final plat and all documents including any public comments and approve the final plat if the final plat:

1. Except for minor modifications under IMC 18.13.160, Modification of an approved final plat, is consistent with the approved preliminary plat; and
2. Is consistent with the provisions of this title and Chapter 58.17 RCW.

These criteria include the criteria for review of plats set forth in RCW 58.17.110, the state subdivision statute. The City Council and Hearing Examiner addressed consistency of the application with RCW 58.17.110 criteria during preliminary plat review. *See Exhibit A.7; Exhibit A.8*. As a result of preliminary plat review, the Hearing Examiner approved the preliminary plat with 20 conditions. *See Exhibit A.8*. Because the application has already undergone review for consistency with the applicable subdivision criteria, and conditions of approval were applied to ensure consistency, final plat review is limited to determining whether conditions of preliminary plat approval and Chapter 18.13 IMC technical requirements are satisfied.

Conclusions Based on Findings

1. **With conditions, the proposed final plat would comply with Chapter 18.13 IMC technical requirements.** The City gave adequate notice of the final plat application and associated public meeting. The City previously reviewed the environmental impacts of developing the property through the preliminary plat process, as required by SEPA. The Applicant has generally complied with Chapter 18.13 IMC technical requirements, including dedications and certifications, improvements, and financial guarantees on deferred improvements. Conditions are necessary to ensure that the Applicant includes necessary signatures of City representatives on the final plat, properly records the final plat, installs signage required by conditions of preliminary plat approval, and properly submits copies of the final plat to City departments. *Findings 1 – 16*.
2. **The final plat would comply with the applicable conditions of preliminary plat approval.** The residential development proposed for the subject property is consistent with the Low Density Residential Comprehensive Plan designation. The proposed

development is consistent with the purpose and requirements of the Single Family Small Lot zone. The application for final plat approval was adequately reviewed for compliance with the conditions of the preliminary plat approval. Completion of required improvements is guaranteed through posting of a performance bond by the Applicant. Appropriate provision has been made for the public health, safety, general welfare, and all other items specified in IMC 18.13.310. *Findings 1 – 16.*

DECISION

Based on the preceding Findings and Conclusions, the final plat for Rivenwood (Issaquah 22) is **APPROVED**, subject to the following conditions:

1. Minor, non-substantive adjustments may be made to the final plat at the discretion of the Responsible Official prior to recording.
2. Prior to recording of the Final Plat, the necessary signature of City representatives must be signed on the mylar sheets.
3. The Applicant shall record the approved Final Plat with the King County Department of Records and Elections.
4. A copy of the recorded Final Plat packages shall be provided to the Development Services Department within ten (10) days of recording with the King County Department of Records and Elections. The Applicant shall also submit an electronic copy of the plats in a format acceptable to the Public Works Department.

Decided this 9th day of March 2015.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center